

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBBIE D. WHITE,

No. 2:20-cv-2383 MCE AC PS

Plaintiff,

V.

CITY AND COUNTY OF WEST  
SACRAMENTO, et al.,

## ORDER

## Defendants.

This matter was previously referred to a United States Magistrate Judge pursuant to Local Rule 302(c)(21) because Plaintiff was proceeding pro se following withdrawal of counsel. ECF Nos. 29, 32, 34. Defendants' Motion to Dismiss, ECF No. 30, and all other pretrial scheduling and proceedings were thus referred to the assigned magistrate judge. ECF No. 34.

On February 9, 2022, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections thereto were to be filed within twenty-one (21) days. ECF No. 47. Defendants have filed objections to the findings and recommendations. ECF No. 48.

On March 11, 2022, attorney Zachary Lawrence appeared on behalf of plaintiff following approval of his pro hac vice application. ECF Nos. 49, 50. As a result, the assigned magistrate judge referred all pretrial matters, other than discovery motions, back to the undersigned.

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1 ECF No. 51. Because the findings and recommendations were issued while Plaintiff was  
2 proceeding pro se, the Court will consider the findings and recommendations.

3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this  
4 Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the  
5 Court finds the findings and recommendations to be supported by the record and by proper  
6 analysis.

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. The findings and recommendations filed February 9, 2022, ECF No. 47, are  
9 ADOPTED in full.

10 2. The Motion to Dismiss, ECF No. 30, is GRANTED in part and DENIED in part as  
11 follows:

12 a. Plaintiff's first cause of action (Eighth Amendment), fourth cause of action  
13 (Substantive Due Process), sixth cause of action (Monell liability), seventh cause of action  
14 (Assault), and eighth cause of action (Bane Act) are DISMISSED with final leave to amend;

15 b. Plaintiff's second cause of action (Excessive Force), third cause of action (False  
16 Arrest), and seventh cause of action (Assault and Battery) are DISMISSED with final leave to  
17 amend as to all defendants EXCEPT Officer Ogden and Officer Mahaffey;

18 c. Plaintiff's fifth cause of action (First Amendment) is DISMISSED with final leave to  
19 amend as to all defendants EXCEPT as to Officer Ogden; and

20 d. Defendants City of West Sacramento, West Sacramento Police Department, and  
21 Officer Schreiber are DISMISSED from this case.

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1           3. Not later than thirty (30) days following the date this Order is electronically filed,  
2 Plaintiff may, but is not required to, file a Second Amended Complaint. If no amended complaint  
3 is timely filed, the causes of action dismissed by virtue of this Order will be deemed dismissed  
4 with prejudice upon no further notice to the parties.

5           IT IS SO ORDERED.

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7           Dated: March 22, 2022

  
9           MORRISON C. ENGLAND, JR.  
10           SENIOR UNITED STATES DISTRICT JUDGE

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